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| EXAMINER |
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AILES, BENJAMIN A

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| ART UNIT | PAPER NUMBER |
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2142

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/098,513

Applicant(s)

KRANTZ ET AL.

Examiner

Benjamin A. Ailes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/17/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to correspondence filed 06 February 2006 and 17 May 2006.
2. Claims 1-16 and 18-22 remain pending.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Response to Amendment

4. Applicant's amendment to claims 10 and 11 have been acknowledged and overcome the prior objections set forth due to minor informalities. The informalities objections have been withdrawn.
5. Applicant's amendment to claims 9, 10 and 16 have been acknowledged and overcome the prior rejections set forth under 35 USC 112, second paragraph. The rejections under 35 USC 112, second paragraph, have been withdrawn.

Claim Objections

6. Claim 18 is objected to because of the following informalities:
 - Line 1 of claim 18 should be changed to "...validating an individually adapted..."
 - Line 8 of claim 18 should be changed to "...a user accesses the control system..."
 - It is unclear in lines 9 and 11 of claim 18 whether "course selections" should actually be "course sections". For examination, examiner assumes

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"course sections" is the correct choice in order to make logical sense with the rest of the claim. Clarification is requested.

Appropriate correction is required.

7. Claim 19 is objected to because of the following informalities:

- It is unclear in line 5 of claim 19 whether "course selections" should actually be "course sections". For examination, examiner assumes "course sections" is the correct choice in order to make logical sense with the rest of the claim(s).

Clarification is requested.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. The term "desired" in claim 18, line 10 is a relative term which renders the claim indefinite. The term "desired" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear and not explicitly defined how a user achieves a "desired competence" and at what point a user finally attains the status of a "desired competence". Also, it is unclear as to who or what is responsible for determining the correct level of "desired" competence. One of ordinary

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skill in the art would not reasonably understand the scope of the invention in terms of at what degree a user reaches the status of "desired competence" and therefore the use of the relative term "desired" renders the claim indefinite.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by George et al. (U.S. 5,978,648), hereinafter referred to as George.

13. Regarding claim 1, George discloses A control system for achieving quality ensured competence development (col. 1, lines 7-16, *...educational assistance tools, and processes and, more specifically, to an interactive multimedia performance assessment system and process for use by students, educators, and administrators for facilitating individualized performance and assessment of a student's academic development...*), wherein said system is connected to a distributed computer network (see Fig. 32); wherein said system comprises: at least one first memory device connected to said distributed computer network and operable to store all course sections of different courses and an ideal time for each course section (col. 2, lines 7-10, *Teachers create a series of performance assessment tasks which are designed to access a student's entry level knowledge or application of knowledge in a given subject matter and covering a specified time frame*), at least one second memory device

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connected to said distributed computer network and operable to store all studied material affiliated with said course section (col. 2, lines 19-27, *The work folders provide the student numerous multi media tools such as Internet access, work processing and paint programs, digital scanner, video camera, and camcorder devices and audio recorders to assist the student in creating multi media presentations*), at least one third memory device connected to said distributed computer network and operable to store individual-adapted course plans (col. 2, lines 19-21, *The assessment tasks are assigned digitally to the students on their computers for completion either at school or at home*), at least one control device connected to said distributed computer network and operable in calculating and indicating a planned completion date for each individual course plan with the aid of said ideal time for different course sections and the time spent by said individual on different course sections (col. 2, lines 7-10, *Teachers create a series of performance assessment tasks which are designed to assess a student's entry level knowledge or application of knowledge in a given subject matter and covering a specified time frame*, and col. 6, lines 48-52, *...the performance task template screen includes a summative assessment presentation which incorporates a student grade entry, a subject entry, an assignment start date, an assignment end date, a task status entry, and an assessment purpose entry*), and at least one fourth memory device connected to said distributed computer network and operable to store the course plans and course sections that have been completed with respect to each individual (col. 2, lines 35-38, *The students are further provided with the ability to compile their best work onto a CD-ROM or similar computer writeable media...*).

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14. Regarding claim 2, George discloses the control system for achieving quality ensured competence development wherein each individual obtains access to said control system by means of a computer device connectable to said distributed computer network, and in that the control system also includes at least one recording device operable in recording the time spent for each course section by each individual (see Figure 32, item 216 – HOME PC, item 214, 224, LAN, INTERNET, The step of recording the time spent is inherently recorded by the network in well known login/logout procedures which perform time stamping.).

15. Regarding claim 3, George discloses the control system for achieving quality ensured competence development wherein the distributed computer network is the Internet or a Wide Area Network (WAN) (see Figure 32, item 224, INTERNET).

16. Regarding claim 4, George discloses the control system for achieving quality ensured competence development wherein said at least one first memory device, said at least one third memory device and said at least one fourth memory device are comprised of at least one first server device; and in that said at least one second memory device is comprise of a second server device (see Figure 32).

17. Regarding claim 5, George discloses the control system for achieving quality ensured competence development wherein each computer device includes a reproduction device or display, where different cursors on the display indicate different statuses of a course section in respect of a given individual (see Figure 11, item 170, 'task status').

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18. Regarding claim 6, George discloses the control system for achieving quality ensured competence development wherein a first cursor denotes that a course section has been completed, a second cursor denotes that a course section is ongoing, and a third cursor denotes that a course section has been commenced but not yet completed (see figure 11, item 166, 'start date', item 168, 'end date', item 170, 'task status').

19. Regarding claim 7, George discloses the control system for achieving quality ensured competence development wherein a fourth cursor functions to start and stop the recording of the time spent on a respective course section by the recording device (col. 8, lines 20-29, *...a student home page screen is illustrated (Figure 9) and may be directly accessed from the home page by a student once the appropriate login sequence has been key entered* As mentioned in claim 2, The step of recording the time spent is inherently recorded by the network in well known login/logout procedures which perform time stamping.).

20. Regarding claim 8, George discloses the control system for achieving quality ensured competence development wherein a fifth cursor enables an individual to communicate with a teacher in writing (col. 2, lines 28-32, *The teacher assessment tasks and student work folders are designed so that they are truly interactive and allow both the teacher and student to also communicate and to provide information using any combination of text, audio, and video...*).

21. Regarding claim 9, George discloses the control system for achieving quality ensured competence development wherein access to the control system is obtained through the medium of a password or security codes (col. 8, lines 19-22, *...a student*

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home page screen (Fig. 9) is illustrated and may be directly accessed from the home page by a student once appropriate login sequence has been key entered).

22. Regarding claim 10, George discloses a method of achieving quality ensured competence development with the aid of a control system for achieving quality ensured competence development, wherein the method comprising:

choosing from a first memory device included in the control system and operable in storing all course sections for different courses and an ideal time for each course section (col. 2, lines 7-10, *Teachers create a series of performance assessment tasks which are designed to access a student's entry level knowledge or application of knowledge in a given subject matter and covering a specified time frame*), course sections that form an individual-adapted course plan, and storing said plan in a third memory device included in the control system (col. 2, lines 7-10, *Teachers create a series of performance assessment tasks which are designed to access a student's entry level knowledge or application of knowledge in a given subject matter and covering a specified time frame*, and col. 2, lines 19-21, *The assessment tasks are assigned digitally to the students on their computers for completion either at school or at home*);

downloading study material affiliated with said chosen course sections from a second memory device included in the control system and operable in storing all study material (col. 2, lines 19-27, *The work folders provide the student numerous multi media tools such as Internet access, work processing and paint programs, digital scanner,*

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video camera, and camcorder devices and audio recorders to assist the student in creating multi media presentations);

calculating and indicating a planned completion date for said course plan by means of a control device included in the control system and with the aid of said ideal time for different course sections and also with the aid of the time spent by said individual on different course sections (col. 2, lines 7-10, *Teachers create a series of performance assessment tasks which are designed to access a student's entry level knowledge or application of knowledge in a given subject matter and covering a specified time frame*, and col. 6, lines 48-52, *...the performance task template screen includes a summative assessment presentation which incorporates a student grade entry, a subject entry, an assignment start date, an assignment end date, a task status entry, and an assessment purpose entry*); and

when one or more course sections or the course plan has/have or has been completed, storing said course section/sections and/or course plan in a fourth memory device included in the control system(col. 2, lines 35-38, *The students are further provided with the ability to compile their best work onto a CD-ROM or similar computer writeable media...*).

23. Regarding claim 11, George discloses the method of achieving quality ensured competence development wherein each individual obtains access to said control system by means of a computer device which can be connected via a distributed computer network and which includes a reproduction device or display device, wherein said method also comprises:

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a first cursor is shown on the display device to indicate that a course section has been completed (see figure 11, item 166);

a second cursor is shown on the display device to indicate that a course section is ongoing (see figure 11, item 168); and

a third cursor is shown to indicate that a course section is ongoing but not yet completed (see figure 11, item 170).

24. Regarding claim 12, George discloses the method of achieving quality ensured competence development wherein the control system includes at least one recording device operable in recording the time spent by each individual on different course sections, wherein the method further comprises the step of using a fourth cursor for starting and stopping recording of the time spent on a course section by the recording device (col. 8, lines 20-29, *...a student home page screen is illustrated (Figure 9) and may be directly accessed from the home page by a student once the appropriate login sequence has been key entered* As mentioned in claim 2, The step of recording the time spent is inherently recorded by the network in well known login/logout procedures which perform time stamping.).

25. Regarding claim 13, George discloses the method of achieving quality ensured competence development further comprising using a fifth cursor displayed on the display device to enable an individual to communicate with a teacher in writing (col. 2, lines 28-32, *The teacher assessment tasks and student work folders are designed so that they are truly interactive and allow both the teacher and student to also*

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communicate and to provide information using any combination of text, audio, and video...).

26. Regarding claim 14, George discloses the method of achieving quality ensured competence development wherein the distributed computer network is the Internet or a Wide Area Network (WAN) (see Figure 32, item 224, INTERNET).

27. Regarding claim 15, George discloses the method of achieving quality ensured competence development, further comprising, when study material has been revised in the second memory device, the revised study material is distributed to those individuals who have chosen the course section affiliated with said study material (col. 5, lines 50-54, *George discloses the use of an instructional task planner that an instructor may use to view and maintain tasks.*).

28. Regarding claim 16, George discloses the method of achieving quality ensured competence development wherein access to the control system is obtained by entering a password or security codes (col. 8, lines 19-22, *...a student home page screen (Fig. 9) is illustrated and may be directly accessed from the home page by a student once appropriate login sequence has been key entered*).

29. Regarding claim 18, George discloses a method for selecting, taking and validating a individually adapted course plan using a networked computer system including a user computer device in communication with a control system, wherein the control system includes a first memory device storing course sections for different courses and an ideal time for each course section, a second memory device storing study material for each course section, a third memory device storing individually

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adapted course plans and a fourth memory device storing completed course sections and course plans, and the method comprises:

through the user computer device, a user access the control system and the first memory device to choose course selections to create an individual adapted course plan for the user to achieve a desired competence wherein the course plan is adapted based on an individual competence of the user before taking the course selections (col. 2, lines 19-27);

storing the individual adapted course plan in the third memory device (col. 6, lines 48-56);

through the user computer device, the user downloads study material for each chosen course section from the second memory device in the control system (col. 2, ll. 19-27);

recording a progress of the user in taking and completing each of the course sections (col. 6, ll. 48-52);

calculating a planned completion date for the individual adapted course plan using the ideal time for the chosen course sections and the recorded progress of the user (col. 6, ll. 48-52);

after completing each course section, the user takes a test using the user computer device and the test is graded, wherein an indication of the completed course section is stored in the fourth memory device (col. 6, ll. 48-52), and

after completing a course plan, an indication that the user completed the course plan is stored in the fourth memory device (col. 6, ll. 48-52).

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30. Regarding claim 19, George discloses the method further comprising validating a user before the user takes course sections wherein the validation comprises:

validating a user to determine the individual competence of the user based on a consultation with a user and a supervisor (col. 8, ll. 19-22); and

wherein the choosing of course selections is determined, at least in part, based on the individual competence of the user (col. 2, ll. 7-10).

31. Regarding claim 20, George discloses the method wherein the test is generated from a randomized list of test items (col. 2, ll. 7-12 and 20-24).

32. Regarding claim 21, George discloses the method wherein the test comprises test questions regarding theoretical questions and test items of practical events related to the course section (col. 2, ll. 7-12 and 20-24).

33. Regarding claim 22, George discloses the method wherein the test items of practical events are presented to the user in a chronological order in accordance with a production process or station system corresponding to the practical events.

Response to Arguments

34. Applicant's arguments filed 06 February 2006 and 17 May 2006 have been fully considered but they are not persuasive.

35. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Referencing applicants' REMARKS filed 06 February 2006, applicants claim that George et al. (US 5,978,648) discloses an educational tool adapted to create

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learning content, which is only one component of the present invention and since George is specific to classroom presentations, George is not applicable to "on the job learning" which is supported by the present invention. The examiner does not agree with applicants assertion due to the fact that nowhere in the claims is "on the job learning" recited and furthermore "on the job learning" is not recited as intended use and/or an embodiment advantage in the specification filed 04 June 2002. Even if "on the job learning" was taught by the specification and/or the filed claims, applicants are reminded that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 1

36. Applicant argues George does not disclose separate different devices; a first memory having all course sections of different courses and an ideal time for each course section; a second memory operable to store all studied material affiliated with said course section; a third memory device to store individual-adapted course plans; a control device that calculates and indicates a planned completion date for each individual course plan with the aid of said ideal time for different course sections and the time spent by said individual on different course sections, or a fourth memory to store the course plans and course sections that have been completed with respect to each individual.

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37. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant has failed to show and elaborate as to how or why George does not disclose elements of claim 1. Examiner submits that George does teach the limitations of claim 1 as outlined above in the rejection and independent claim 1 is not deemed patentable over the prior art of record.

Claim 4

38. Applicant argues that George does not disclose "two server devices supporting the memory devices.

39. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant has failed to show and elaborate as to how or why George does not disclose elements of claim 4. Examiner submits that George does teach the limitations of claim 4 as outlined above in the rejection and claim 4 is not deemed patentable over the prior art of record.

Claim 10

40. Applicant argues that George does not disclose the steps of choosing from a first memory device storing all course sections for different courses and an ideal time for each course section, course sections that form an individual-adapted course plan, and storing said plan in a third memory device included in the control system; downloading

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study material affiliated with said chosen course sections from a second memory device; calculating a planned completion date for said course plan with the aid of said ideal time for different course sections and also with the aid of the time spent by said individual on different course sections; and when one or more course sections or the course plan is completed, storing said one or more course sections or course plan in a fourth memory device included in the control system.

41. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant has failed to show and elaborate as to how or why George does not disclose elements of claim 10. Examiner submits that George does teach the limitations of claim 10 as outlined above in the rejection and claim 10 is not deemed patentable over the prior art of record.

Claims 18-22

42. Applicant argues that (1) George does not disclose a user computer device having a first memory storing core selection, a second memory storing study materials for each course sections, a third memory device storing individual adapted course plans and a fourth memory device storing completed course sections and course plans. (2) George does not disclose a method step in which a user accesses a first memory device to choose course selections to create an individual adapted course plan based on an individual competence. (3) George does not disclose storing the individual adapted course plan in a third memory device. (4) George does not disclose studying

material from a second memory device. (5) George does not disclose calculating a plan completion date for an individual adapted course plan. (6) George does not disclose storing an indication in a fourth memory device that the user has completed a course action. Further statements are provided with regards to the dependent claims.

Applicant states that George does not disclose validating a user before the user takes course sections as set forth in claim 19; George does not disclose a test generator for randomized list as required by claim 20; George does not disclose generating test questions regarding theoretical questions and test items of practical events relating to the course sections as required by claim 21, and George does not disclose test items for practical events that are presented to the user in a chronological order in accordance with the production process or station system, as required by claim 22.

43. In response to applicant's arguments, the recitation "George does not disclose a user computer device having a first memory storing course selection, a second memory storing study materials for each course sections, a third memory device storing individual adapted course plans and a fourth memory device storing completed course sections and course plans. " has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

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44. Applicant's arguments with respect to claims 18-22 fail to comply with 37

CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims

patentably distinguishes them from the references. Applicant has failed to show and elaborate as to how or why George does not disclose elements of claims 18-22.

Examiner submits that George does teach the limitations of claims 18-22 as outlined above in the rejection and therefore claims 18-22 are also not deemed patentable over the prior art of record.

Conclusion

45. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Siefert (US 2001/0018178 A1) discloses selecting teaching strategies suitable to student in computer-assisted education.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899. The examiner can normally be reached on M-F 6:30-4, IFP Work Schedule.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

baa

Beatriz Prieto
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PRIMARY EXAMINER